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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

HUMAN RIGHTS IN THE ADMINISTRATION OF JUSTICE

Question of a draft model text for national legislation in the field of human rights in the administration of justice

Note by the Secretary-General

1. The present note on the question of a draft model text for national legislation in the field of human rights in the administration of justice has been prepared pursuant to General Assembly resolution 45/166 of 18 December 1990, entitled "Human rights in the administration of justice".

2. In paragraph 8 (b) of that resolution, the General Assembly requested the Secretary-General to prepare, on the basis of comments by Member States and relevant international organizations and bodies, as well as by non-governmental organizations, a draft model text for national legislation in the field of human rights in the administration of justice. In paragraph 9, the Assembly also requested the Commission on Human Rights to invite the Subcommission to consider the draft model text with a view to the further elaboration of model texts and to propose such texts to the Commission for adoption.

3. The Commission on Human Rights, at its forty-seventh session, in its resolution 1991/34 of 5 March 1991 entitled "Human rights in the

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* A/46/150.

administration of justice", requested the Secretary-General to establish a consolidated list of provisions in the various United Nations standards relating to human rights in the administration of justice with a view to drafting model texts for national legislation. It invited the Subcommission on Prevention of Discrimination and Protection of Minorities, on the basis of that consolidated list, inter alia, to take the necessary action with a view to elaborating model texts for national legislation for the effective implementation of standards relating to human rights in the administration of justice. Further, the Subcommission was requested to report to the Commission at its forty-eighth session on the implementation of the resolution.

4. In response to the request contained in those resolutions, the Secretary-General prepared a consolidated list of provisions in the various United Nations standards relating to human rights in the administration of justice (E/CN.4/Sub.2/1991/26).

5. The Subcommission on Prevention of Discrimination and Protection of Minorities drew the attention of the members of its sessional Working Group on Detention to General Assembly resolution 45/166 and Commission on Human Rights resolution 1991/34, referred to above.

6. The members of the Working Group considered some aspects of the question. In particular, it was pointed out that some special rapporteurs of the Subcommission, in preparing their reports in the field of human rights in the administration of justice, paid due attention to the elaboration of guidelines for the development of national legislation. It was suggested that the Special Rapporteur on human rights and states of emergency should elaborate the draft guidelines for the development of the legislation on states of emergency contained in his report (E/CN.4/Sub.2/1991/28, annex I).

7. Because of the insufficient time allocated to the Working Group, however, it was suggested to continue the consideration of that issue at the next session of the Working Group in order to address the issues put forth by the General Assembly and the Commission.